

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Civil Writ Petition No.316 of 2001.

Date of decision: 22.12.2006

Hitender Paul

..Petitioner

Versus

State of HP and Ors.

..Respondents

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?¹ No

For the Petitioner : Mr. Y.P.S Dhaulta, Advocate.

**For Respondent No.1: Mr. C.B. Singh, Deputy Advocate
General.**

Dev Darshan Sud,J.

The petitioner is aggrieved by the order passed by the Director, Consolidation of Holdings, Himachal Pradesh, exercising the powers of the State Government under Section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971. The grievance of the petitioner is that the impugned order, Annexure P-E, passed by the Director of Consolidation, is a non-speaking order and does not consider the record or examine the contentions which have been raised by the petitioner.

Petitioner submits that during consolidation, he has been allotted Khasra No.356

¹ *Whether the reporters of Local Papers may be allowed to see the judgement? No*

adjoining to Khasra No.355, which is owned by the opposite party Tek Chand. The petitioner is in possession of Khasra No.314 and has constructed a major portion of his building. An application, Annexure PA, to the writ petition was made by the petitioner to the Consolidation Officer requesting that his possession over Khasra No.314 be maintained and the allotment of Khasra No.356 be cancelled leaving such possession with respondent Tek Chand. These objections under Section 30(1) of the H.P Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 (hereinafter referred to as the Act) were not accepted by the Consolidation Officer, Mandi.

Being aggrieved, an appeal under Section 30(3) of the Act, was preferred before the Settlement Officer, Consolidation Department, Bilaspur, who by his order dated 22.7.1999 accepted the appeal filed by the petitioner, but according to him, consolidation was not done in a manner so as to allot Khasra No.314 to the petitioner. Since Khasra No.314 was not allotted to the petitioner, an appeal under Section 30(4) of the Act was preferred against the decision of the Settlement Officer, which appeal was dismissed by the Additional Director Additional Director, Consolidation of Holdings, Himachal Pradesh. Thereafter, a revision petition under Section 54 of the Act was preferred by the petitioner which was again rejected by the Director of Consolidation by his order dated 7.6.2000.

On going through the record, I find that the Director of Consolidation has passed the impugned order with the observations that if the request of the applicant is acceded to, the land of both the parties will be fragmented. The order passed is a terse, four line order. It is by now well settled that any order affecting the rights of the parties, which is passed either by a statutory or quasi judicial authority, has to be a speaking and reasoned order. Mere recitation of words that a particular state of affairs exists without enumerating the circumstances for the reasons, cannot be called a reasoned order. A reading of the order does not show as to how the Director of Consolidation has applied his mind to the submissions made before him and the material on record. It is well settled that passing a speaking and reasoned order, is now a part of our constitutional jurisprudence.

In these circumstances, the order Annexure PE is quashed and set aside and it is directed that the Director, Consolidation of Holdings, shall decide the matter afresh after giving opportunity of being heard to both the parties. The writ petition is disposed of. There shall be no order as to costs.

December 22, 2006
(ss)

(Dev Darshan Sud)
Judge